

REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 1-18; drawn to a product; and

Group II: Claims 19-20, drawn to a method of loading a product.

Applicants elect, with traverse, Group I, Claims 1-18; drawn to a product, for further prosecution.

In regard to Groups I and II, the Office has characterized the relationship between these two groups as product and process of use. Citing MPEP §806.05(h), the Office concludes that the product as claimed can be used in a process where each box/box formed from the blank is loaded with a single product which is in the shape of a parallelogram as opposed to claims 19 and 20. Also, the Office concludes that the product as claimed can be used in a process where a single container is provided and loaded as opposed to claims 19 and 20 which require a plurality of containers to be loaded, i.e. claims 1-18 do not require mass production and loading or provision of a plurality of like containers. However, the Office has not provided reasons and/or examples to support this conclusion. Further, the Office has failed to show that the proposed use(s) is materially different from the claimed use. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Applicants further traverse the Restriction Requirement on the additional ground that a search of all the claims would not impose a serious burden on the Office. The MPEP in §803 states as follows:

"If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office.

For the reasons set forth above, Applicants contend that the Restriction Requirement is improper and should be withdrawn.

Within Group I, which was elected above, the Office has required restriction in the present application as follows: an election between "the following patentably distinct species of the claimed invention":

- I. Figs. 4-7, 22, and 23;
- II. Figs. 8-15 and 19-21; and
- III. Figs. 16-18.

Applicants elect, with traverse, species II. Figs. 8-15 and 19-21, for further prosecution.

It is the Applicants view that all pending Claims 1-18 read on the elected species.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper there must be a patentable difference between the species as claimed. MPEP §808.01(a). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants

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respectfully submit that the restriction is improper, and Applicants' election of species is for examination purposes only.

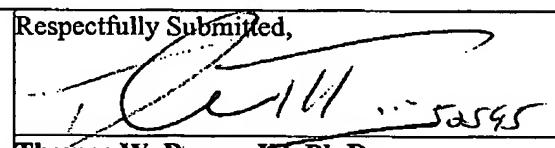
Applicants respectfully submit that the Office has not shown that a serious burden exists in searching the entire application.

Finally, with respect to the elected species, Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Election of Species Requirement. Withdrawal of the Restriction Requirement and the Election of Species Requirement is respectfully requested.

Applicants further submit that this application is in condition for examination on the merits and an early notification to that effect is earnestly solicited.

Please charge the amount of \$0.00 required for any request for extension of time to our Deposit Account No. 09-0525. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 09-0525. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time.

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